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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/869,109 06/04/97 CHESSER

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EXAMINER

KELLY, C

ART UNIT

PAPER NUMBER

1721

DATE MAILED: 02/09/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
08/869,109

Applicant(s)  
Chesser et al.

Examiner  
Kelly, C.H.

Group Art Unit  
1721



☒ Responsive to communication(s) filed on Dec 14, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1, 3, 7, 9, 14-16, 21, 22, 26, 27, and 29-65 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 3, 7, 9, 14-16, 21, 22, 26, 27, and 29-65 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7, 9, 14-16, 21-23, 26,27, 29-41 and 42-65 are rejected under 35

U.S.C. 103(a) as being unpatentable over GB 2084586.

The GB reference teaches adding a brine to a polymer to make a polymer dispersion and then adding the polymer dispersion to another brine solution resulting in a brine having a higher concentration. See page 2, described as a latter embodiment in lines 35-45. The reference discloses that a polymer, water and inorganic salt are mixed together to hydrate the polymer and then an aqueous brine is admixed with the polymer suspension. Calcium bromide, zinc bromide, calcium chloride and zinc chloride are among the preferred cations used. The inorganic salt is described as being calcium chloride, calcium bromide, zinc bromide and zinc chloride. The difference between the reference and the application is that the reference does not specifically state the ranges as applicant claims. However, the amounts used are subject to modification due to the desirability of the well completion solutions. It is obvious to optimize the amounts of the components of a composition. In re Aller 105 USPQ 223. It would have been obvious to one of ordinary skill in the art to make the claimed invention by the method also claimed because the GB

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reference teaches hydrating a polymer in a brine(salt) and then adding that solution to an additional aqueous brine.

Applicant's arguments filed December 14, 1999 have been fully considered but they are not persuasive.

The new matter rejection is withdrawn due to applicant's comments.

Applicant has most recently changed the terms <sup>from</sup> "hydrating" to "prehydrating". The amendment does not overcome the prior art rejection. The terms have the same meaning here.

Applicant argues that the examiner has not shown where the reference states that brine should be substituted for water. On page 2, in lines 35-38, the reference explains hydrating the polymer with a solution of water and inorganic salt. The suspension is then added to an aqueous brine. The inorganic salt used in the first step is described as being calcium chloride, calcium bromide, zinc chloride or zinc bromide in lines 20-23 of page 2. This is not the embodiment shown in the examples. However, it does represent applicant's method. No substitution is required. This passage on page 2 is the teaching. Applicant's reference to In re Brouwer is irrelevant as the statements of page 2 of the reference are not suppositions. It clearly states added water and inorganic salt (clearly defined) to the polymer for hydration. Brine is added afterwards to the suspension.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kelly whose telephone number is (703) 308-0499. The examiner can normally be reached on Mondays through Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sharon Gibson, can be reached on (703) 308-4552. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

C.H. Kelly  
Art Unit 1721  
C.H. Kelly